

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6308

BILL NUMBER: HB 1183

NOTE PREPARED: Dec 27, 2012

BILL AMENDED:

SUBJECT: Abandoned Structure Liens.

FIRST AUTHOR: Rep. Smith V

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill provides that a person who repairs, cleans up, or maintains a neighboring abandoned structure is entitled to a lien on the property, not to exceed the lesser of: (1) the fair market value of the work performed; or (2) \$10,000.

It establishes a procedure for creating, filing, and enforcing the lien. It provides that any of the following may repair, clean up, or maintain an abandoned structure (and may assert, file, and enforce a lien) on behalf of one or more property owners whose property bears the specified geographic proximity to an abandoned structure: (1) A neighborhood association. (2) A homeowners association. (3) A community organization.

The bill also provides that the lien has priority over: (1) a lien created after it; and (2) a mortgage of a creditor. It specifies that the lien expires if not enforced within one year after the statement and notice of intention to hold a lien is recorded with the county recorder.

Effective Date: July 1, 2013.

Explanation of State Expenditures:

Explanation of State Revenues: *Court Fee Revenue:* A lien may be enforced by filing a complaint in the circuit or superior court in the county where the property with the attached lien is located. A person that repairs, cleans up, or maintains a neighboring abandoned structure would be immune from civil liability and claims of civil or criminal trespass while making a repair, clean up, or maintenance of the structure.

If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment Fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana. And proceeds from the automated record keeping fee (\$5) are deposited into the state User Fee Fund.

Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures: *County Recorders:* This provision should have a minimal impact on county recorder expenditures. However, recorders may require additional staff time to process liens as provided by the bill. Recorders would have to send lien notices by first class mail to the property owner on which the lien has been filed.

Background– The bill would apply to liens placed on Class 2 structures. A Class 2 structure is defined in the Indiana Code as either a structure containing one or two dwelling units or an outbuilding of the structure.

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also be required to pay the following fees that are deposited in local funds.

The document storage fee (\$2) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per document) are charged for preparing transcripts or copies of record or certificate under seal.
- Service fee (\$10) collected from the filing party for each defendant beyond the first cited in the lawsuit.

State Agencies Affected:

Local Agencies Affected: Trial courts, county recorders.

Information Sources:

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